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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,159	09/21/2001	Christian H. Passow	2001P17283US	4657

7590 03/14/2003

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EXAMINER

DONOVAN, LINCOLN D

ART UNIT

PAPER NUMBER

2832

DATE MAILED: 03/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/961,159

Applicant(s)  
Passow et al.

Examiner  
Lincoln Donovan

Art Unit  
2832



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jan 14, 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-21 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 3-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehman et al. [US 4,774,484] in view of McGary [US 3,290,628].

Lehman et al. disclose a auxiliary contact assembly for an electrical switching apparatus [102] comprising:

- an actuator [110];
- a housing [figure 3];
- an electrical contact system [181, 185, figure 16];
- a pusher [170] selectively actuatable by the actuator to operate the contact system;
- flexible means [104, 104A] for joining the housing to the electrical switching apparatus; and
- locking means [134, column 3, lines 58-67] for resiliently locking the housing to the electrical switching apparatus.

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Lehman et al. disclose the instant claimed invention except for: the locking means being formed of a mortise and tenon, the specific arrangement of the actuator element relative to the auxiliary switch and the specific arrangement of the locking means on the housing.

McGary discloses a contactor [10] having auxiliary switches attached thereto by means of a (mortise/dovetail)/tenon joint [98, figure 1].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the (mortise/dovetail)/tenon joint design of McGary for the locking means of Lehman et al. for the purpose of providing a tight lock when the auxiliary switch is attached to the switching apparatus.

Lehman et al. discloses the claimed invention except for the specific positioning of the actuator. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the actuator protrude from the switching apparatus instead of the auxiliary switch, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

The specific positioning lock types would have been obvious design considerations based on the particular type of switching apparatus used and necessary switching configurations.

### ***Response to Arguments***

3. Applicant's arguments filed 01-14-03 have been fully considered but they are not persuasive.

Applicant argues:

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[1] The combination of Lehman et al. with McGary is improper.

[2] Neither Lehman et al. or McGary discloses the locking mechanisms positioned as claimed by applicant.

Examiner disagrees:

Regarding [1]: Lehman et al. shows the claimed locking means and snap retention fit. McGary discloses that a mortise/tenon can also be used to secure an auxiliary switch to a housing. A skilled artisan, as acknowledged by applicant and taught by McGary, would have been motivated to use the mortise/tenon design of McGary with, or for, the locking means of Lehman et al. to provide a secure engagement between the contactor and auxiliary switch.

Regarding [2]: Lehman et al. teaches that the locking means can be mounted in multiple positions.

### *Conclusion*

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

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calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lincoln Donovan whose telephone number is (703) 308-3111.

The fax number for this Group is (703)-872-9318.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)308-0956.

LDD

March 7, 2003

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LINCOLN DONOVAN  
PRIMARY EXAMINER  
GROUP 2100